In the Supreme Court of the United States.

OCTOBER TERM, 1904.

THE UNITED STATES, EX REL. MARTIN A. Knapp et al., Interstate Commerce Commissioners, plaintiff in error,
v.
THE LAKE SHORE AND MICHIGAN SOUTHERN Railway Company.
No. 251.

MOTION TO ADVANCE.

The Solicitor-General, at the request and on behalf of the plaintiff in error in the above-entitled cause, respectfully moves the court to advance the same on the docket, on the following grounds:

The case is a petition in the name of the United States on the relation of Martin A. Knapp et al., Interstate Commerce Commissioners, to the Circuit Court of the United States for the Northern District of Ohio for mandamus to compel the Lake Shore and Michigan Southern Railway Company to file an annual report with the Interstate Commerce Commission, as provided by section 20 of the Act to Regulate Commerce. Said Circuit Court dismissed the petition on the ground of want of jurisdiction, and the case is in this court on writ of error.

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The annual reports required by the law to be made to the Interstate Commerce Commission are necessary to enable the Commission to discharge its duties in enforcing the provisions of the Act to Regulate Commerce, and particularly in making its annual report to Congress, as required by section 21 of that act.

Not only has the Lake Shore and Michigan Southern Railway Company refused to make out and file its report under section 20 of said act, but a number of other railway companies have also refused to make out and file such report. Petitions for mandamus to compel other carriers to comply with the law have been filed in the Circuit Court of the United States for the District of Massachusetts and in the Circuit Court of the United States for the Southern District of New York, and proceedings on those petitions have been suspended by said courts to await the decision of this court in the present case.

As the lower court dismissed the petition upon the ground of want of jurisdiction, the plaintiff in error is willing to submit the case to this court upon printed briefs under the thirty-second rule. Opposing counsel, however, decline to consent thereto.

Notice of this motion has been served upon opposing counsel and proof of service thereof filed with the clerk.

HENRY M. HOYT,
Solicitor-General.

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JAN 16 1905
JAMES H. McKENNEY,
Clerk.

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v.
THE LAKE SHORE AND MICHIGAN SOUTHERN RAILWAY COMPANY.

No. 251.

SUGGESTIONS IN ANSWER TO MOTION TO ADVANCE.

The defendant in error begs leave to submit in answer to the motion of the Solicitor-General to advance this cause the following:

The statement in the motion to advance that the defendant company refused to make out and file its report under section 20 of said Act (the Act to Regulate Commerce) is not according to the fact, nor as is set forth in the record in this cause at page 2.

The defendant company did, as appears by the petition herein (paragraph VI), make and file with the Commission its report under said section 20, but only

failed to set forth certain data or information called for on page 63 A of the form of report furnished by the Commission, "Namely, the tonnage, ton mileage, earnings and receipts per ton per mile on grain, cotton, live stock, dressed meats, anthracite coal, bituminous coal and lumber carried in carload lots." In all other respects its said report, which contained 85 pages, was made as requested or required by the Commission. And said omitted matter is all that is sought to be obtained in this suit.

The defendant respectfully submits that the information called for on said page 63 A is not "necessary to enable the Commission to discharge its duties."

GEO. C. GREENE,
Of Counsel for Defendant in Error.